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January 5, 2016

The Honorable Charles R. Breyer
United States District Judge
Northern District of California
450 Golden Gate, Avenue, Dept. 6
San Francisco, CA 94102-3483

**Re: *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and
Products Liability Litigation*
MDL No. 2672**

Dear Judge Breyer:

This brief letter is my introduction to you and represents my application to serve on the plaintiff's leadership committee. A copy of my curriculum vitae is attached. I represent plaintiffs in the case *Kathleen O'Leary vs. Volkswagen Group of America, Inc.* (N.D. Cal. Case Number 3:15-cv-06268-CRB) already transferred to this MDL.

I am a founding partner of Seeger Salvas LLP, a San Francisco law firm which focuses on representing people injured by defective products. Like many other lawyers involved in this litigation, I have a wealth of experience serving in leadership positions in other MDLs and state court coordinated proceedings. In addition, however, I have some unique experiences which make me particularly well-suited to serving in this litigation.

Prior to founding Seeger Salvas in 2002, I was a partner in Crosby Heafey Roach & May, a large Bay Area defense firm. In that capacity, I was the National Litigation Counsel for Sulzer Orthopedics, Inc. in the defense of more than 4,000 civil actions following the recall of more than 30,000 implanted hips and knees. That case ultimately resolved in a national class action settlement, valued at roughly \$1 billion, overseen by the Honorable Kathleen M. O'Malley. *In re Sulzer Hip Prosthesis & Knee Prosthesis Liab. Litig.*, MDL No. 1401. In short,

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my experience as national counsel for the Sulzer hip and knee implant litigation has given me an understanding, unique among the plaintiff's bar, of what Volkswagen is experiencing now.

In other litigation I have been able to use this experience to build bridges between plaintiffs and defendants and forge difficult settlements. For example, I served as National Settlement Counsel for Chattem, Inc., a publicly-traded consumer products company, and successfully negotiated and implemented a national class action settlement involving hundreds of PPA cases, valued at approximately \$100 million, overseen by the Honorable Barbara J. Rothstein. *In re: Phenylpropanolamine (PPA) Products Liability Litigation*, MDL No. 1407.

In addition, as mentioned above, I have significant experience serving in plaintiff's leadership positions. In the *DePuy ASR* litigation, Honorable David A. Katz (N.D. Ohio) appointed me to the Science and Expert Committee, and San Francisco Superior Court Judge Richard Kramer appointed me to the Plaintiffs Steering Committee in the *DePuy ASR California Coordinated Proceedings*. In addition, San Francisco Superior Court Judge Mary E. Wiss appointed me as lead counsel ("Plaintiffs' Liaison") in the *DePuy Pinnacle California Coordinated Proceedings*. My other appointments are listed in the attached C.V.

I understand the tremendous amount of time, effort and financial resources that must be dedicated to this case. My firm and I are committed to this litigation. If appointed to a leadership position in this case, I will make this litigation the focus of my professional efforts until this case is brought to a successful conclusion. Your consideration of my application is greatly appreciated.

Respectfully submitted,

/s/Kenneth M. Seeger

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Education

Temple University School of Law, J.D. 1988; *Temple Law Review*
State University of New York, Stony Brook, B.A. 1979

Professional Background

Seeger Salvas LLP, 2002 - present
Crosby Heafey Roach & May, 1988 - 2002

Mass Tort and Class Action Experience

- Appointed to serve on the Science Committee by U.S. District Judge David A. Katz in *In re: DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation*, MDL No. 2197, United States District Court, Northern District of Ohio.
- Appointed as lead counsel (“Plaintiffs’ Liaison”) by San Francisco Superior Court Judge Mary E. Wiss in the *DePuy Pinnacle Hip Implant Litigation*, California Coordinated Proceedings, JCCP 4662.
- Appointed to Plaintiffs’ Steering Committee by San Francisco Superior Court Judge Richard Kramer in the *DePuy ASR Hip Implant Litigation*, California Coordinated Proceedings, JCCP 4649.
- Appointed to serve on the Claims Review Committee by U.S. District Judge Richard H. Kyle in *In re: Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation*, MDL No. 1905, United States District Court, District of Minnesota.
- Appointed to serve on the Plaintiffs Steering Committee by U.S. District Judge Frederick J. Marton in *In re: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation*, MDL No. 2096, United States District Court, District of Arizona.
- Appointed as co-lead counsel by Hennepin County Minnesota District Court Judge Hon. Charles A. Porter, Jr., in *In Re Medtronic, Inc. Implantable Defibrillators Product Liability Litigation*, Minnesota Coordinated Proceedings, Case No. PI 05-015531.
- Appointed to serve on the Claims Review Committee by U.S. District Magistrate Judge Arthur J. Boylan in *In Re Medtronic, Inc. Implantable*

Defibrillators Products Liability Litigation, MDL No. 05-1726, United States District Court, District of Minnesota.

- Appointed to serve on the Common Benefit Attorney's Fees Committee by U.S. District Magistrate Judge Arthur J. Boylan in *In Re Medtronic, Inc. Implantable Defibrillators Products Liability Litigation*, MDL No. 05-1726, United States District Court, District of Minnesota.
- Appointed to serve on the Claims Review Committee by U.S. District Magistrate Judge Arthur J. Boylan in *In Re Guidant Corp. Implantable Defibrillators Products Liability Litigation*, MDL No. 05-1708, United States District Court, District of Minnesota.
- Appointed as Class Counsel by Superior Court of California, County of Alameda, in a class action against a major HMO.
- Appointed as Class Counsel by Superior Court of California, County of Alameda, in *In re Allied Education, vocational school fraud litigation*.
- *National Settlement Counsel* for Chattem, Inc., a publicly-traded consumer products company, and successfully negotiated and implemented a national class action settlement involving hundreds of PPA cases valued at approximately \$100 million. *In re: Phenylpropanolamine (PPA) Products Liability Litigation*, MDL No. 1407.
- *National Litigation Counsel* for Sulzer Orthopedics, Inc., a multi-national medical device company, in the defense of more than 4000 civil actions following a product recall, ultimately resolving in a successful national class action settlement valued at approximately \$1 billion. *In re Sulzer Hip Prosthesis & Knee Prosthesis Liab. Litig.*, MDL No. 1401.

Selected Publications

- "California Tort Guide," CEB (Continuing Education of the Bar), 3rd Edition, 2010 – 2016 (Contributing Author)
- "California Tort Damages Guide," CEB (Continuing Education of the Bar), 2nd Edition, 2011 – 2016 (Contributing Author)
- "California Tort Guide: Pharmaceutical and Medical Device Litigation," (Chapter 13) CEB (Continuing Education of the Bar), 3rd Edition, 2009
- "Preemption After Wyeth v. Levine," CEB (Continuing Education of the Bar), March 2009

Pro Bono Recognition

1999 *Father Moriarty Award*: "In recognition of outstanding efforts to gain political asylum for people fleeing death and terror." Lawyers' Committee for Civil Rights

2005 *Living the Dream Award*: For Career-Long Support of the Lawyers' Committee for Civil Rights